

Response to Restriction Requirement and Preliminary Amendment
Serial No. 10/019,669
Docket No.: A7705

REMARKS

In the Action, the Examiner has required restriction under 35 U.S.C. § 121 to one of the following:

Group 1 -- Claims 1-25, 31, 32, 35, 36 and 38, drawn to a shoe or insole; or

Group II - Claims 26-30, 33, 34, 37, 39 and 40, drawn to a method of using a shoe/insole.

Applicant hereby elects Group 1, drawn to claims 1-25, 31, 32, 35, 36, and 38 with traverse. Applicant reserves the right to file divisional applications on the non-elected claims.

Applicant traverses this restriction because the claims of group I and group II share at least one common special technical feature. For example, the invention of independent claim 25 and the inventions of dependent claims 26-30 share all of the features of independent claim 25. Likewise, dependent claims 33 and 34 have all of the features of independent claim 31, and dependent claims 37, 39, and 40 have all of the features of independent claim 35. Therefore, restriction is not proper under PCT Rule 13 the claims because the claims have unity of invention. PCT Rule 13 & Annex B (Unity of Invention).

In addition, Applicant respectfully requests the Examiner to allow the dependent method claims should a claim from which they depend ultimately be allowed. *See MPEP §809.03.*

In addition, Applicants have made stylistic amendments to dependent method claims 26-30, 33, 34, 37, 39, and 40 in an attempt to place the claims in a preferred form for the Examiner's consideration. The scope of the subject matter claimed, however, remains unchanged.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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